

MINUTES
Public Hearing of the College Park City Council
Tuesday, May 27, 2014

7:15 P.M. - 14-O-03

An Ordinance of the Mayor and Council of the City Of College Park, Amending Chapter 87, "Building Construction" To Add §87-25, "Installation and Maintenance of Underground Utilities in City Rights Of Way" And Amending Chapter 110, "Fees and Penalties," §110-1 "Fees and Interests" To Include the Fees Imposed Under §87-25

PRESENT: Mayor Fellows; Councilmembers Kabir (arrived at 7:21 p.m.), Wojahn, Brennan (arrived at 7:17 p.m.), Dennis, Day, Hew and Mitchell.

ABSENT: Councilmember Stullich.

ALSO PRESENT: Joe Nagro, City Manager; Janeen Miller, City Clerk; Bill Gardiner, Assistant City Manager; Suellen Ferguson, City Attorney; Bob Stumpff, Director of Public Works; Steve Halpern, City Engineer.

Mayor Fellows opened the public hearing on Ordinance 14-O-03 at 7:15 p.m. Ms. Ferguson provided an overview: this was generated by an application for a permit to underground a utility in the City's right-of-way. It was the first time the City received a request for a permanent installation and we realized we did not have a permit system set up to address this type of request. We looked at the City of Rockville and Prince George's County undergrounding utility law as a basis for this ordinance.

Mayor Fellows invited public comment.

LaTara Harris, Regional Director for External and Legislative Affairs for AT&T, 1120 20th Street, NW, #800, Washington, DC 20036 (she also provided written testimony): They are opposed to the ordinance as it is written. They want to increase investment in College Park so that everyone can have a robust alternative to technology based services. Under federal law, the City has a right to regulate rights-of-way and to require fair and reasonable compensation from telecommunications service providers on a competitively neutral and non-discriminatory basis. Exempting one class of competitors from an obligation that applies to others is inconsistent with this federal law. Why would College Park not want to welcome AT&T's investment to better serve our residents and others? They are open to reasonable fees but a discriminatory policy will discourage investment.

Councilmember Wojahn asked if we provide access to our rights-of-way to any utilities for free?

Ms. Ferguson said there are various utilities that have been under City rights-of-way for considerable periods of time. This is the first application we have had to do something new in the right-of-way and we want to take care of how it is handled. We don't adopt discriminatory laws. There are existing agreements and other requirements of law that apply to us regarding other utilities, such as the existing franchise agreements with Comcast and Verizon. This is designed to resolve the issue when new companies come in and request the permanent use of the right-of-way. This is a one-time fee to cover our administrative costs and obligations that their use of our right-of-way would require.

Ms. Harris clarified that the fee itself is not problematic; they are more concerned with the fiber optic piece.

Ms. Ferguson said the conduit portion is just an option that we offer because sometimes it is more valuable to the City to have the fiber optic provided.

There being no further comment, Mayor Fellows closed the public hearing at 7:25 p.m.

Janeen S. Miller, CMC
City Clerk

Date Approved